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**DEPARTMENT OF THE TREASURY
CUSTOMS SERVICE**

19 CFR PART 10

RIN 1515-AC59

CIVIL AIRCRAFT

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations concerning the duty-free entry of civil aircraft merchandise to reflect amendments to General Note 6 of the Harmonized Tariff Schedule of the United States made by the Miscellaneous Trade and Technical Corrections Act of 1996. This document invites the public to comment on the proposed changes.

DATES: Comments must be received on or before [60 days from June 29, 2000.]

ADDRESS: Written comments (preferably in triplicate), regarding both the substantive aspects of the proposed rule and how it may be made easier to understand, may be submitted to and inspected at the Regulations Branch, Office of Regulations and

Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor,

Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Ms. Dixie Staple, Office of Field Operations, at (202) 927-1131.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document proposes to amend ' 10.183 of the Customs Regulations (19 CFR 10.183), which concerns Customs duty-free treatment of civil aircraft merchandise. Section 10.183 implements General Note 6 of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), which implements the Agreement on Trade in Civil Aircraft (Title VI of the Trade Agreements Act of 1979, Pub. L. 96-39, 93 Stat. 144, July 26, 1979), to provide duty-free treatment for qualifying civil aircraft merchandise upon compliance with certain requirements.

General Note 6 of the HTSUS was amended by section 12 of the Miscellaneous Trade and Technical Corrections Act of 1996 (the Act), Pub. L. 104-295, 110 Stat. 3514 (October 11, 1996). Prior to the amendment, General Note 6, HTSUS, required that an importer entering merchandise duty-free thereunder must file with Customs a written statement certifying that the merchandise (i) is civil aircraft or has been imported for use in civil aircraft, (ii) will be so used, and (iii) has been approved for civil aircraft use by, or an application for approval has been submitted to, the Administrator of the Federal Aviation Administration (FAA) (or has been approved by an airworthiness authority in the country of exportation if such approval is recognized by the FAA).

General Note 6 defined the term *Civil aircraft* as all aircraft other than aircraft purchased for use by the Department of Defense or the United States Coast Guard.

Prior to the amendment of General Note 6, HTSUS, ' 10.183 of the Customs Regulations (19 CFR 10.183) provided that the written statement required under General Note 6, HTSUS, (referred to in the regulation as a certificate or certification) must be filed with each entry summary or be on file with Customs at the time of entry as a blanket statement at the port where the entry is filed (19 CFR 10.183(c)). The regulation also provided that the statement could not be treated as a missing document for which a bond could be posted pending its later production (under 19 CFR 141.66), and that failure to timely file the statement or to have a valid blanket statement on file at the port would result in a dutiable entry (19 CFR 10.183(c)(2)).

The Act amended General Note 6, HTSUS, to eliminate the statement (certification) filing requirement and to provide that an importer makes a claim for duty-free treatment under the General Note by entering the merchandise under a tariff provision for which the program indicator *AFree (C)* appears in the *ASpecial* subcolumn of the tariff. This is accomplished by placing the program indicator *AC* on the entry summary. This claim, in accordance with General Note 6 as amended by the Act, is deemed the importer's certification that the merchandise being entered is civil aircraft or has been imported for use in civil aircraft and will be so used. Although the amendment eliminated the statement filing requirement, it requires that an importer maintain documentation to support the claim. It also provides that an importer may

amend an entry or file a written statement to claim duty-free treatment under General Note 6, HTSUS, any time before the liquidation of the entry becomes final.

These statutory amendments to General Note 6, HTSUS, establish the basis for the amendments to ' 10.183 proposed in this document. The proposed amendments to the regulation expand its coverage, eliminate the requirement that supporting documentation be filed with each entry summary, require that supporting documentation be maintained in the importer-s records, eliminate the statement (certification) filing requirement, allow an importer to make a claim under General Note 6, HTSUS, after the filing of an entry but before its liquidation becomes final, and provide that no interest attaches to refunds of duty resulting from post-entry claims.

COMMENTS

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), ' 1.4 of the Treasury Department Regulations (31 CFR 1.4), and ' 103.11(b) of the Customs Regulations (19 CFR 103.11(b)) on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

EXECUTIVE ORDER 12866

This document does not meet the criteria for a *significant regulatory action* as specified in E.O. 12866.

REGULATORY FLEXIBILITY ACT

Adoption of the proposed amendments regarding civil aircraft will make importations of such merchandise less burdensome for importers than is the case under current regulations. Accordingly, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is certified that the proposed amendments to the Customs Regulations, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

PAPERWORK REDUCTION ACT

The collection of information contained in this notice has previously been reviewed and approved by the Office of Management and Budget (OMB) under OMB control number 1515-0065 (Entry Summary), 1515-0069 (Immediate Delivery Application), and 1515-0144 (Customs Bond Structure). This rule does not propose any substantive changes to the existing approved information collection.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

DRAFTING INFORMATION

The principal author of this document was Bill Conrad, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices contributed in its development.

LIST OF SUBJECTS IN 19 CFR PART 10

Aircraft, Customs duties and inspection, Entry, Reporting and recordkeeping requirements.

PROPOSED AMENDMENTS TO THE REGULATIONS

For the reasons stated in the preamble, part 10 of the Customs Regulations (19 CFR Part 10) is proposed to be amended as follows:

PART 10 - ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 continues to read, and the specific authority citation for ' 10.183 is added, as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321,1481,1484,1498,1508,1623, 1624, 3314;

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Section 10.183 also issued under 19 U.S.C. 1202 (General Note 6, HTSUS);

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2. Section 10.183 is revised to read as follows:

' 10.183 Duty-free entry of civil aircraft, aircraft engines, ground flight simulators, parts, components, and subassemblies.

(a) Applicability. Except as provided in paragraph (b) of this section, this section applies to aircraft, aircraft engines, and ground flight simulators, including parts, components, and subassemblies thereof, that qualify as civil aircraft under

General Note 6 of the Harmonized Tariff Schedule of the United States (HTSUS) by meeting the following requirements:

(1) The aircraft, aircraft engines, ground flight simulators, or parts, components, and subassemblies thereof, are used as original or replacement equipment in the design, development, testing, evaluation, manufacture, repair, maintenance, rebuilding, modification, or conversion of aircraft; and

(2) they are either:

(i) manufactured or operated pursuant to a certificate issued by the Administrator of the Federal Aviation Administration (FAA) under 49 U.S.C. 44704, or pursuant to the approval of the airworthiness authority in the country of exportation, if such approval is recognized by the FAA as an acceptable substitute for the FAA certificate;

(ii) covered by an application for such certificate, submitted to and accepted by the FAA, filed by an existing type and production certificate holder pursuant to 49 U.S.C. 44702 and implementing regulations (Federal Aviation Administration Regulations, title 14, Code of Federal Regulations); or

(iii) covered by an application for such approval or certificate which will be submitted in the future by an existing type and production certificate holder, pending the completion of design or other technical requirements stipulated by the FAA (applicable only to the quantities of parts, components, and subassemblies as are required to meet the stipulation).

(b) Department of Defense or U.S. Coast Guard use. If purchased for use by the Department of Defense or the United States Coast Guard, aircraft, aircraft engines, and ground flight simulators, including parts, components, and subassemblies thereof, that qualify as civil aircraft under General Note 6 of the HTSUS are subject to this section only if they are used as original or replacement equipment in the design, development, testing, evaluation, manufacture, repair, maintenance, rebuilding, modification, or conversion of aircraft and meet the requirements of either paragraph (a)(2)(i) or (a)(2)(ii) of this section.

(c) Claim for admission free of duty. Merchandise qualifying under paragraph (a) or paragraph (b) of this section is entitled to duty-free admission in accordance with General Note 6, HTSUS, upon meeting the requirements of this section. An importer makes a claim for duty-free admission under this section and General Note 6, HTSUS, by properly entering qualifying merchandise under a provision for which the rate of duty AFree (C)@ appears in the ASpecial@ subcolumn of the HTSUS and by placing the special indicator AC@ on the entry summary. The fact that qualifying merchandise has previously been exported with benefit of drawback does not preclude free entry under this section.

(d) Importer certification. In making a claim for duty-free admission as provided for under paragraph (c) of this section, the importer is deemed to certify, in accordance with General Note 6(a)(ii), HTSUS, that the imported merchandise is civil aircraft as described in paragraph (a) or paragraph (b) of this section or has been imported for use in civil aircraft and will be so used.

(e) Documentation. Each entry summary claiming duty-free admission for imported merchandise in accordance with paragraph (c) of this section must be supported by the written order or contract and any additional documentation Customs may require to verify the claim for duty-free admission, including evidence of compliance with the FAA certification requirement of paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this section. This required documentation need not be filed with the entry summary, but must be maintained in accordance with the recordkeeping provisions of Part 163 of this chapter. An importer not in possession of the required supporting documentation at the time of entry may not then claim duty-free admission under this section but may later make a duty-free claim after entry in accordance with paragraph (f) of this section. Customs may request production of supporting documentation at any time to verify the claim for duty-free admission. Proof of end use of the entered merchandise need not be maintained.

(f) Post-entry claim. An importer may file a claim for duty-free treatment under General Note 6, HTSUS, after filing an entry that made no such duty-free claim, by filing a written statement with Customs any time prior to liquidation or prior to the liquidation becoming final. When filed, the written statement constitutes the importer's deemed certification. In accordance with General Note 6, HTSUS, any refund resulting from a claim made under this paragraph will be without interest, notwithstanding the provision of 19 U.S.C. 1505(c).

(g) Verification. The port director will monitor and periodically audit selected

entries made under this section.

Commissioner of Customs
Raymond W. Kelly

Approved: June 7, 2000

Deputy Assistant Secretary of the Treasury
John P. Simpson